

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE

ARBUTUS BIOPHARMA CORPORATION	)	
and GENEVANT SCIENCES GmbH,	)	
	)	
Plaintiffs,	)	
	)	
v.	)	C.A. No. 22-252 (MSG)
	)	
MODERNA, INC. and MODERNATX, INC.	)	
	)	
Defendants.	)	
MODERNA, INC. and MODERNATX, INC.,	)	
	)	
Counterclaim-Plaintiffs,	)	
	)	
v.	)	
	)	
ARBUTUS BIOPHARMA CORPORATION	)	
and GENEVANT SCIENCES GmbH,	)	
	)	
Counterclaim-Defendants.	)	

**STIPULATION TO EXTEND TIME**

WHEREAS, on June 20, 2024, the Court granted Plaintiffs leave to extend the discovery period to July 17, 2024 solely to permit Plaintiffs to serve subpoenas on various third-party manufacturers (D.I. 355);

WHEREAS, Plaintiffs subsequently served subpoenas on four of the manufacturers located in the United States (D.I. 380-383);

WHEREAS, each of the manufacturers located in the United States has requested an extension of time to gather the requested data until at least August 2, 2024;

WHEREAS, Plaintiffs also moved the Court to issue Letters of Request under the Hague Evidence Convention (“Letters of Request”) to three foreign manufacturers (D.I. 369);

WHEREAS, the Court granted that motion on July 8, 2024, and the clerk's office issued the Letters of Request on July 12, 2024;

WHEREAS, Plaintiffs have forwarded the Letters of Request to the appropriate authorities in Spain and/or Italy pursuant to the Court's July 8, 2024, Order.

WHEREAS, the typical response time to such a request is three to six months<sup>1</sup>;

WHEREAS, Plaintiffs agree to produce a copy of any documents or files from the subpoena recipients to Moderna within 24 hours of receipt by Plaintiffs;

WHEREAS, Plaintiffs may, if appropriate based on the forthcoming discovery, supplement their infringement reports by the later of the following dates: (1) August 23, 2024, or (2) 14 days after all four subpoena recipients have completed producing documents, but in no event later than September 6, 2024. Those supplements will be limited to addressing any documents produced by the four subpoena recipients. Plaintiffs reserve the right to seek leave to serve additional supplements if necessary. Nothing in this stipulation shall be interpreted to foreclose Plaintiffs from otherwise relying on any documents produced by the four subpoena recipients where permitted, including in Plaintiffs' reply expert reports;

WHEREAS, given the uncertainty of the timing of any production in response to the Letters of Request, the parties will meet and confer in the future regarding the use of any documents produced by those foreign manufacturers in expert discovery and at trial; and

WHEREAS, pursuant to D. Del. LR 16.4, counsel certifies that copies of this stipulation have been sent to their respective clients;

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<sup>1</sup> See, e.g., Hague Conference on Private International Law, *United States of America - Central Authority (Art. 2) and practical information*, <https://www.hcch.net/en/states/authorities/details3/?aid=528> ("For evidence that needs to be compelled, the average time for execution is 3-6 months.") (last visited July 17, 2024).

NOW THEREFORE, the parties hereby stipulate and agree, subject to the approval of the Court, that the deadline for the completion of fact discovery relating to the subpoenas to Lonza Biologics, Inc., Catalent Indiana, LLC; Patheon Manufacturing Services, LLC, and Baxter Pharmaceutical Solutions, LLC is extended through and including August 23, 2024. The parties further stipulate and agree, subject to the approval of the Court, that the deadline for fact discovery relating to the requests for international judicial assistance is extended through and including October 17, 2024. The parties further agree to meet and confer regarding this deadline should the foreign judicial processes not conclude by that time, but reserve all rights.

SHAW KELLER LLP

*/s/ Nathan R. Hoeschen*

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*Attorney for Plaintiffs*

Dated: July 23, 2024

**BY THE COURT:**

*/s/ Mitchell S. Goldberg*  
**MITCHELL S. GOLDBERG, J.**

**Dated:** July 24, 2024

MORRIS, NICHOLS, ARSHT & TUNNELL LLP

*/s/ Travis J. Murray*

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